

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 09cr377  
v. : U.S. Courthouse  
EDWARD STEIN, : Brooklyn, New York  
Defendant. : June 22, 2009  
2:00 p.m.

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TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE JACK B. WEINSTEIN  
UNITED STATES SENIOR JUDGE

APPEARANCES:

For the Government: BENTON J. CAMPBELL  
United States Attorney  
By: SCOTT KLUGMAN  
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1 (Open court-case called-appearances noted.)

2 THE COURT: You are Edward Stein?

3 THE DEFENDANT: Yes.

4 THE COURT: I have an information for this  
5 defendant. Has he agreed to plead to an information?

6 MR. KLUGMAN: Yes, your Honor. My understanding is  
7 that Mr. Stein will waive indictment -- there's a waiver of  
8 indictment form up there -- and will plead guilty to all 5  
9 counts of the information that we have presented to the court,  
10 which my understanding is the court will file once the waiver  
11 occurs.

12 MR. MAAS: That is correct, your Honor. We entered  
13 into that agreement with the government.

14 THE COURT: Has there been an allocution before the  
15 magistrate judge?

16 MR. MAAS: No, there is not.

17 THE COURT: All right. I want an allocution first  
18 and I will take the plea then on the sentence.

19 Is that suitable?

20 MR. MAAS: In other words, when you say you want an  
21 allocution first, you want the defendant to describe for  
22 you --

23 THE COURT: I want a Rule 11 proceeding before the  
24 magistrate judge for the plea.

25 MR. MAAS: Fine.

1           THE COURT: Then at the time of sentencing I will  
2 decide whether to take the plea or not.

3           Is that appropriate in your opinion?

4           MR. MAAS: Fine, your Honor, if that's what your  
5 Honor wishes.

6           We had thought that we would be appearing today for  
7 the plea -- but either way.

8           MR. KLUGMAN: Judge Mann, who is the magistrate  
9 assigned to the case, is not available today to take the  
10 allocution.

11          THE COURT: Call the Chief Magistrate Judge and have  
12 him assign another judge, another magistrate judge to do it.

13          MR. KLUGMAN: Or we could go to the duty magistrate,  
14 your Honor, if that is appropriate.

15          THE COURT: Yes, that is suitable.

16          MR. KLUGMAN: It's June Orenstein today. I will  
17 go --

18          THE COURT: Speak into the microphone, please.

19          MR. KLUGMAN: I will, as soon as we are completed  
20 here, I will break away and I will go speak to Judge Orenstein  
21 or, if there's another magistrate who is available instead of  
22 Judge Orenstein, we will do that.

23          Obviously we have a number of victims here today so  
24 we're hopeful we can accomplish all those things today.

25          THE COURT: As I understand it, there is a plea

1 agreement basically for an extensive securities series of  
2 frauds and this, as I understand it, is a hearing pursuant to  
3 Section 3771 of Title 18, the Crime Victims Rights, is that  
4 clear?

5 MR. KLUGMAN: The victims who are here today have  
6 rights under 3771 because this proceedings relates to a plea  
7 to criminal charges and also there's a potential bond issue,  
8 and they have a right to be heard obviously on both of those  
9 issues under 3771, et seq..

10 THE COURT: Has bail been set?

11 MR. KLUGMAN: Bail has been set. I think post plea  
12 there was an agreement between the parties -- the victims may  
13 wish to be heard on that -- that additional property will be  
14 added to the bond that was previously set at the time of  
15 arrest; specifically, the bond was a 2 million dollar bond  
16 secured by 3 pieces of property.

17 The parties have agreed that 2 more will be added.  
18 I think the individuals who are going to be now additional  
19 sureties -- they're not local individuals and we have agreed  
20 that, as a standard, they can sign the bond before another  
21 judge at their local courthouse within a week of today's  
22 proceedings or the plea proceedings, whenever that happens.

23 THE COURT: Now, Judge Lynch, I am informed, of the  
24 United States Court for the Southern District of New York, has  
25 appointed a receiver, H. Thomas Morin, II, to oversee the

1 property of the defendant; is that correct.

2 MR. KLUGMAN: That's correct, your Honor.

3 And as part of the plea agreement today, in lieu of  
4 forfeiture -- and I can let Miss Kedeshian speak to this  
5 because she drafted that portion of the agreement -- the  
6 defendant will agree that the assets that have been identified  
7 by the receiver will be available to compensate individuals  
8 who lost money as a result of the fraudulent schemes.

9 I have a request from the court's clerk to have Mr.  
10 Morin available, if possible, in court. He's in Oklahoma so  
11 obviously it wasn't possible for him to be here, but he said  
12 he would be available by phone.

13 THE COURT: If we need him we'll get him.

14 According to the plea agreement, page 8, the  
15 defendant has provided a financial statement. Where is that  
16 statement?

17 MR. MAAS: We have it right here, your Honor.

18 THE COURT: All right. Present it to me and mark  
19 it. That will be Court Exhibit 1 of today's date.

20 Since we have a substantial number of claimants, the  
21 clerk will file this document so it will be publicly  
22 available.

23 Under the Crime Victims Rights Act, a person who  
24 believes he or she is a crime victim has the following rights:  
25 First, to be reasonably protected from the accused. Second,

1 to reasonable, accurate and timely notice of any public court  
2 proceeding involving the crime.

3 Have you notified all persons known to you?

4 MR. KLUGMAN: We have done our best to notify all  
5 persons known to us.

6 THE COURT: Third, the right not to be excluded from  
7 any public court proceedings without an order of the court.  
8 Fourth, the right to be reasonably heard at any public  
9 proceeding involving release, plea, sentencing or any parole  
10 proceeding.

11 The United States Attorney will inform those who  
12 believe they are victims of the plea before the magistrate  
13 judge so that if they wish to attend they may do so.

14 You will inform them when the defendant is  
15 sentenced.

16 Fifth, the reasonable right to confer with attorneys  
17 for the government in the case. And, sixth, the right to full  
18 and timely restitution as provided in the law.

19 Although all of you must recognize that although the  
20 court will issue an appropriate order of restitution, it's  
21 highly unlikely in these cases that there will be sufficient  
22 assets available to pay the claims of those who decide that  
23 they would like to make a claim because they have been  
24 defrauded.

25 Marshal, I want everybody seated or out of the

1 court.

2 And seventh, the right to have proceedings free from  
3 unreasonable delay. Finally, the right to be treated with  
4 fairness and with respect for the victims' dignity and  
5 privacy.

6 Accordingly, those of you who wish to be heard will  
7 be heard now. Try to speak briefly since there are so many of  
8 you and, if you wish to appear anonymously, you may do so in  
9 order to protect your privacy.

10 A VOICE: May I speak?

11 THE COURT: The United States Attorney will select  
12 people to come up and speak.

13 A VOICE: I actually didn't --

14 THE COURT: Excuse me. I'm not going to ask that  
15 any of the victims be sworn, but I expect you to speak  
16 truthfully.

17 A VOICE: Yes. Actually, I didn't mean --

18 THE COURT: Give your name.

19 A VOICE: My name is Glenn Wurtzel.

20 THE COURT: Yes, sir.

21 MR. WURTZEL: I didn't intend to speak as a witness.  
22 I wanted to ask your Honor with regard to sentencing what is  
23 the best way for us to express to you our views and represent  
24 our wishes and the damages done to us.

25 THE COURT: After the plea is taken we will have a

1 presentence report that will give extensive information on the  
2 nature of the crime and background of the defendant. I will  
3 direct the United States Attorney to make available to those  
4 victims who wish to see it a copy of that presentence report  
5 suitably redacted to take out of it the names of people who  
6 should not be involved publicly.

7           Then you'll be told of the date of the sentence and  
8 at that time probably it's the best moment to be heard because  
9 then we'll know more about the case; we'll know more about the  
10 defendant's possible assets; we'll know more about the claims,  
11 and each of you who wishes to will be in touch with the United  
12 States Attorney to make a claim for restitution so that the  
13 court can consider possible incarceration, possible fines, and  
14 a restitution order which must be issued in a case of this  
15 kind.

16           MR. WURTZEL: Just a clarification. Would you like  
17 us to write to you in advance of the sentencing or is it  
18 sufficient to appear on the day of sentencing?

19           THE COURT: I'll take writings or appearances,  
20 whichever you prefer.

21           You should consult with the United States Attorney  
22 with respect to restitution rights and other rights you may  
23 have.

24           MR. WURTZEL: Those are my questions.

25           THE COURT: All right.



1 MR. MAAS: Your Honor, with respect to what your  
2 Honor just directed concerning the presentence report, as you  
3 know, presentence reports are generally maintained  
4 confidentially between the court, the Probation Department and  
5 the attorneys in the case.

6 I know your Honor just ordered it to be made  
7 available properly redacted. I just would like to reserve the  
8 opportunity to make a submission to your Honor to oppose the  
9 release of any part of it because generally -- I mean, it is  
10 maintained confidentially and it's something that is very  
11 strictly considered.

12 I wasn't expecting that from your Honor so I hasn't  
13 come prepared to address it in a legal manner, but I'd like  
14 the opportunity to present something to your Honor on that  
15 subject before it gets released.

16 THE COURT: Yes. It won't be prepared for some time  
17 and you may make a motion when appropriate.

18 MR. MAAS: Thank you.

19 THE COURT: Does anybody else wish to be heard?

20 A VOICE: Yes.

21 THE COURT: You may give your name if you wish.

22 A VOICE: My name is Gwen Kotler. I just want to say  
23 my father-in-law who has passed on left my husband a fund that  
24 was to be used to take care of my young children as well as my  
25 husband and right now I am in the middle of packing up my

1 house because we can't afford to stay in the house. It's very  
2 hard on me, my kids.

3 THE COURT: How much do you think you were cheated  
4 of?

5 MS. KOTLER: I don't know. It's my husband's money.  
6 It was a fund that was -- money that was left for my husband,  
7 so I don't know.

8 THE COURT: Is he still alive?

9 MS. KOTLER: My husband is.

10 THE COURT: Are you separated?

11 MS. KOTLER: No, we're together.

12 THE COURT: Well, you'll have to try to work with  
13 the United States Attorney for an order of restitution, but  
14 you understand that the order of restitution cannot be  
15 enforced except to the extent that we can find his assets; you  
16 understand that?

17 MS. KOTLER: Yes.

18 THE COURT: All right. Thank you.

19 MS. KOTLER: Thank you.

20 THE COURT: Before everybody leaves, I want the  
21 United States Attorney to get a complete list of all of those  
22 who are present, so those of you who have not been heard or  
23 will not be heard should list your names with the U.S.  
24 Attorney.

25 Call the next witness.

1 Give your name, please, sir.

2 A VOICE: Michael Clateman.

3 THE COURT: Yes, I'll hear you.

4 MR. CLATEMAN: It's my understanding that the  
5 defendant will leave this courtroom and wait approximately  
6 some number of months, six months we're told, to be sentenced  
7 and until that time he'll be free.

8 And what I guess I just don't understand is why this  
9 criminal, who is not a defendant because he's going to plead  
10 guilty, or he wants to plead guilty, he's a criminal, he's  
11 destroyed people's lives and deprived them of their own  
12 freedom in many ways, why is he not going straight to prison?

13 THE COURT: I have not heard the case yet so I  
14 cannot answer your question.

15 Has he been released on bail by magistrate judge's  
16 order?

17 MR. KLUGMAN: As of the day of his arrest, yes. And  
18 as I indicated -- maybe I didn't indicate to your Honor  
19 earlier. Whenever we do take the plea, which hopefully will  
20 be later today, the position of the United States, based on  
21 all the facts and circumstances of the case, is that he should  
22 remain released -- we're not opposing that he remain released  
23 until sentencing based on the legal standards and our  
24 understanding of all the facts of the case.

25 THE COURT: That will have to be taken up with the

1 magistrate judge.

2 In this court we have subsidiary judges who handle  
3 bail. When there is an appeal from that decision I will  
4 decide it because I'm the judge.

5 As I understand it from this statement, the  
6 government has no objection to his remaining on bail during  
7 this period. A normal practice is not to incarcerate people  
8 pending sentence for a variety of reasons. First of all, it's  
9 very expensive to keep people in prison.

10 Secondly, if there is cooperation, it may be more  
11 useful to the victims to have the defendant available for  
12 consultation. There is a receiver in this case, as I've told  
13 you, so that it may be favorable to the victims to have him  
14 out.

15 Third, under the general bail provisions, until he  
16 is sentenced, he has not been adjudicated as guilty.

17 MR. CLATEMAN: Even though he's pled?

18 THE COURT: Correct. There has to be a judgment.

19 So the general practice, unless there is a danger to  
20 the community or his assets may be expended unnecessarily, in  
21 cases is not to incarcerate.

22 If the person is about to leave the country or there  
23 is a danger that he'll abscond or use up his assets or be a  
24 physical or other danger to the community, then we'll put him  
25 in jail. But that's a matter you ought to take up with the

1 U.S. Attorney who will take it up with the magistrate.

2 MR. CLATEMAN: Sir, if I may? The possibility that  
3 he may abscond -- there is no better evidence of his lack of  
4 trustworthiness than what he has done.

5 To think that he may not -- he won't escape, he  
6 won't leave because he's got a few houses up, you know, means  
7 nothing. These people were close to him also.

8 THE COURT: Well, I cannot take an appeal from you.  
9 I can take an appeal from the government and I suggest you  
10 take it up with the United States Attorney.

11 MR. CLATEMAN: Thank you.

12 THE COURT: Thank you. Next. Good afternoon.

13 A VOICE: Good afternoon. My name is Rita Clark.

14 THE COURT: Yes, ma'am.

15 MS. CLARK: My husband and I are in our  
16 mid-seventies. We have faithfully saved over 50 years of work  
17 that we both have done. Ed was going to safeguard our  
18 savings; instead, he has trashed our 50 years of hard work and  
19 squandered our future during which we were hoping to have a  
20 secure old age when we get there and help our family.

21 I simply want to say that, knowing him for more than  
22 30 years, I think he is a serious risk. He often travels. He  
23 spoke about his travels. He also told us many times how he  
24 was giving to his children so I think he probably has disposed  
25 of and hidden many of his assets, probably to family and other

1 people. So I would like that to be taken into consideration  
2 because there is a tremendous betrayal and, as I said, I think  
3 he is a risk.

4 THE COURT: Thank you very much.

5 Next.

6 A VOICE: My name is Leslie Bennett. I've known Ed  
7 for a little over ten years. I also entrusted him with money  
8 that was left to me by my parents. It was money earmarked for  
9 my children's education, my daughter's wedding, my retirement  
10 with my husband.

11 This man sat in my living room, stared me right in  
12 the eye and I said many times, Ed, this is the only savings we  
13 have, please be careful with it. And he time and time again  
14 said not to worry, not to worry, and I'm scrambling to take  
15 out loans for my son to go back to school in September.

16 THE COURT: Where is he going to school?

17 MS. BENNETT: He goes to Townsend University,  
18 Maryland.

19 THE COURT: Maryland?

20 MS. BENNETT: Yes.

21 My daughter, who graduated this year, has to come  
22 live home because we can no longer help her. It's beyond  
23 belief what has gone on here and I agree that he's going to  
24 walk out of here and go live in his apartment and it's a  
25 tragedy to all of us, it's a slap in the face for what he has

1 done to us. It's heartbreaking. There are so many terrible  
2 stories from a man who befriended us and we trusted. It's a  
3 disgrace, it's a disgrace, and that he has agreed to plead  
4 guilty -- I understand bail is given before you're guilty, and  
5 when you're guilty -- and he is guilty -- I also agree that he  
6 has left the country many times.

7 There are very little assets. If he's taken our  
8 money there must be assets, they have to be somewhere. They  
9 are probably out of the country.

10 I also agree that he wouldn't think twice about  
11 letting those houses or his kids and his wife go wherever  
12 because there is probably more money for them to live. And  
13 I'm devastated, I think all of us are devastated, by what he's  
14 done to us.

15 THE COURT: I can understand that. Thank you very  
16 much.

17 MS. BENNETT: You're welcome.

18 THE COURT: Next.

19 A VOICE: My name is Shelly Anderson.

20 Really, what I wanted to say is almost everything  
21 that I entrusted to Ed was my retirement accounts, my SEPS, my  
22 401(k) pension fund, all of my investments that really I  
23 always expected and was very clear about wanting them to be  
24 protected, and the fact that he went into every retirement  
25 account that I had -- I'm 57-years-old -- is just devastating.

1           Anything that I rolled over to him, even if it was  
2 securities, was all I have. I don't know own a home, I don't  
3 have children to take care of me, I mean that was it. So I  
4 just wanted you to know that.

5           People are saying about a risk. He often talked  
6 about traveling to Dubai. I only know him till about 2006,  
7 but I just think that that needs to be investigated in terms  
8 of the possibility that he would be a risk.

9           THE COURT: Thank you.

10          MR. KLUGMAN: Anybody else?

11          THE COURT: Well, there are two issues that have  
12 been raised by the victims under the statute.

13          The statute fairly recently adopted by Congress is  
14 designed with the restitution statutes that were also fairly  
15 recently adopted to protect, to the extent possible, the  
16 victims.

17          What has the government done to assure that any  
18 possible assets that he has will be available to the victims  
19 and will not be used up or disposed of prior to sentence?

20          MR. KLUGMAN: There is a parallel civil action, as  
21 the court is aware, in front of Judge Lynch in the Southern  
22 District of New York.

23          The SEC brought that action. There was a receiver  
24 appointed as a result of that action. In that action -- the  
25 SEC attorney is here. If the court has specific questions,



1 she's in a better position to answer them than I am.

2 Mr. Stein has identified assets. We have frozen  
3 assets, any bank accounts that we were aware of -- I shouldn't  
4 say we, it was really the SEC and the receiver has frozen  
5 assets, any bank account that we were aware of.

6 One of the pools of assets that we believe are  
7 available in this case are life settlement policies that  
8 Mr. Stein, either directly or through his business, has owned  
9 an interest in.

10 He had to file a list of those policies with the  
11 Southern District of New York and obviously given to the  
12 receiver. One of the reasons Mr. Morin was appointed is he  
13 has some expertise in valuing life settlement policies, which  
14 I think will be a substantial part of whatever recovery we can  
15 obtain, so he's going to be the one making decisions about how  
16 to pay premiums, which policy to sell off and however, and  
17 obviously how to dispose of the assets and, of course,  
18 allocating whatever monies are recovered to victims.

19 There is also a piece of real property that hasn't  
20 been identified by the receiver as having equity in it, it's  
21 the residence that Mr. Stein currently lives in, and to the  
22 extent there is equity in that, that will also be available  
23 for victims.

24 THE COURT: What kind of residence does he live in?

25 MR. KLUGMAN: An apartment in Manhattan.

1 THE COURT: Where?

2 MR. MAAS: East End Avenue and 89th Street, and it's  
3 currently being put on the market for sale.

4 THE COURT: How big is the apartment?

5 MR. MAAS: Two-bedroom apartment.

6 THE COURT: Owned by him alone?

7 MR. MAAS: Yes.

8 THE COURT: Is he married?

9 MR. MAAS: He's not; he's divorced.

10 If I may, your Honor, Mr. Stein has adult children.  
11 Two of the three of them previously posted their homes as  
12 collateral for the bond that's already up along with one of  
13 his sisters.

14 We are prepared to put up -- we are prepared -- his  
15 other daughter and his other sister are posting their primary  
16 assets, their homes as collateral for the bond. If Mr. Stein  
17 didn't return to court, which is not going to be the case, he  
18 is going to return to court, but his entire extended family  
19 would be devastated by this.

20 THE COURT: I will amend the bail requirements to  
21 require that third house to be put up.

22 MR. MAAS: A fourth and a fifth house.

23 THE COURT: A fourth and fifth house.

24 MR. MAAS: They are both going to be put up.

25 Mr. Stein's daughter lives in North Carolina and his sister

1 lives in California and they are prepared to go to the federal  
2 court in those districts to sign the bond once it's been  
3 modified.

4 We filled in the information and will work with the  
5 U.S. Attorney's office to make sure that that's done in the  
6 next few days.

7 MR. KLUGMAN: We have a modified release order which  
8 can either be signed by the magistrate or by your Honor.

9 THE COURT: Have the magistrate do it. I don't want  
10 to get involved in the details. I want all four houses.

11 What about his apartment?

12 MR. MAAS: As I said, the receiver is about to sign  
13 a listing agreement with a broker. It's about to be put on  
14 the market for sale. Mr. Stein is cooperating completely with  
15 the broker.

16 THE COURT: Is there a lis pendens so that it can't  
17 be disposed of?

18 MR. MAAS: There is a freeze order from Judge Lynch  
19 that freezes all of Mr. Stein's assets. The SEC has filed a  
20 lis pendens.

21 THE COURT: They have?

22 Who is here from the SEC? Come forward, please and  
23 give your name.

24 MS. BROWN: Nancy Brown from the SEC, your Honor.

25 THE COURT: All right. I will be happy to hear you.

1 Are all these assets protected now?

2 MS. BROWN: Yes. The receiver has taken control of  
3 them pursuant to the asset freeze issued by Judge Lynch.

4 THE COURT: Have you filed your lis pendens with the  
5 county and taken all other precautions?

6 MS. BROWN: It's my understanding that the receiver  
7 has filed a lis pendens against the apartment, your Honor, and  
8 we have asset freezes and orders issued to all the banks in  
9 which we were able to uncover bank accounts under Mr. Stein's  
10 control.

11 THE COURT: What about assets abroad, have you  
12 investigated?

13 MS. BROWN: We continue investigating. We have not  
14 located any assets abroad other than one account that we  
15 identified in London that has a very nominal amount of money  
16 in it. But, our investigation continues and will continue  
17 until we're satisfied that we have uncovered whatever we can  
18 uncover.

19 THE COURT: Are you satisfied that everything  
20 reasonably capable of being done has been done by the SEC and  
21 the United States Attorney and the court in the Southern  
22 District of New York to prevent the disposition of any assets  
23 over which he may have control that could be ordered returned  
24 at least in part to these claimants?

25 MS. BROWN: Those assets of which we are currently

1 aware we have secured. Those assets that we aren't aware of,  
2 we are busily trying to become aware of. So our investigation  
3 continues.

4 I think the court should be aware that we have,  
5 pursuant to an agreement with the defendant, allowed him to  
6 earn a nominal amount from his ongoing business activities and  
7 to retain that amount.

8 THE COURT: How much, what is it?

9 MS. BROWN: Two thousand a month --

10 MR. MAAS: Mr. Stein, at the time of the freeze  
11 order, Mr. Stein has had no access to any funds since April  
12 first. His children have actually been supporting him.

13 Mr. Stein had an opportunity to work with a company  
14 on a business plan -- is it four thousand a month?

15 They offered to pay him four thousand dollars a  
16 month, which doesn't pay the maintenance on the condo which he  
17 has been maintaining and the basic utilities.

18 He's given up his car, he's given up lots of the  
19 other elements of his life that he had before April first. He  
20 was able to find this one opportunity to earn a few dollars  
21 and the SEC and the receiver both agreed that that makes sense  
22 given the burdens that would be put on the rest of his family.

23 THE COURT: Is that right?

24 MS. BROWN: Yes, your Honor.

25 THE COURT: Does he own any cars?

1 MR. MAAS: He had a leased car that he returned  
2 recently. He no longer has a car.

3 THE COURT: Any boats or other vehicles?

4 MR. MAAS: Mr. Stein had the one residence, the  
5 condo that he lived in; no boats, no other homes, no other  
6 luxury assets of any sort.

7 We've provided over the course of the past few  
8 months, and even earlier, access to all the businesses and  
9 banking records of the various entities that are involved in  
10 this. They have been available and I know have been gone  
11 through by the receiver, and we have been going through them  
12 to provide a full accounting of where all the money went over  
13 the years.

14 That will show that, for the most part, except for  
15 living -- no, all the money went to other investors. That's  
16 how this worked, that's what happened. Mr. Stein doesn't have  
17 other assets other than what is in the financial statements  
18 that have been filed.

19 And if I just might in that regard, your Honor, we  
20 had understood prior to today that that was going to be a  
21 document shared with the U.S. Attorney's office as part of the  
22 plea agreement.

23 Again, if we could have -- before it gets filed in  
24 the court file -- an opportunity to redact things like credit  
25 card numbers and other information that we put on the form so

1 that it's not in the public record.

2 THE COURT: Yes.

3 That kind of thing should be done otherwise  
4 somebody's liable to dip into those funds and prevent the  
5 defrauded people from gaining access. So the United States  
6 Attorney will take precautions to prevent anybody to obtain  
7 access unlawfully.

8 I take it the SEC, in prosecuting this, is  
9 reasonably satisfied that all of the assets that can be  
10 located will be located and that adequate freezes and other  
11 legal devices will be utilized to insure that this defendant  
12 can't use them, that none of his progeny or other relatives or  
13 friends can use them and that they will be available for the  
14 government and the claimants.

15 Is that correct?

16 MS. BROWN: Yes, your Honor. That is our mission in  
17 every case like this and that's our mission in this one.

18 THE COURT: Now. I think some of these people --  
19 there are about a hundred of them here -- will be curious, as  
20 I am, about what the policy of the SEC is with respect to the  
21 division of assets under the restitution provisions of the  
22 Criminal Code and the provisions of the SEC and those that it  
23 operates under.

24 MS. BROWN: Are you asking for my reaction to that,  
25 your Honor?

1 THE COURT: Yes.

2 MS. BROWN: I think it's too early to discuss that  
3 issue. I mean, I think at this point -- the receiver is  
4 filing a report today actually in the Southern District, which  
5 will give his initial impressions about the scope of the  
6 assets he's uncovered to date and what his plans for the  
7 immediate future are with respect to those assets and other  
8 assets that he thinks he might be able to uncover.

9 But, as I tried to tell all investors who have  
10 called us to ask about the status, this is an ongoing process  
11 and sometimes it's a lengthy process, depending on what our  
12 investigation reveals and what rabbit holes we still have to  
13 run down.

14 So I think at this stage it's still fairly early to  
15 determine how best to distribute what is available; however,  
16 we are mindful that you don't want a receiver in place who is  
17 doing nothing more than taking the assets that are already  
18 there and preserving them if you can easily dispose of them  
19 because that's a cheaper way to get money back to investors.

20 So we have those sort of dueling philosophies at  
21 work here in this case as we do every case and we are mindful  
22 of the expenses that are being incurred with a receiver.

23 THE COURT: Well, I know, but it is desirable to get  
24 as much money going to the people who will be entitled to  
25 restitution as quickly as possible even before the sentence,



1 if possible.

2 Congress has clearly expressed its view that these  
3 victims should be protected to the extent possible and the  
4 question of whether there will be fines or restitution or SEC  
5 penalties, and what order they will be paid in, is a critical  
6 matter and the United States Attorney will bear in mind that  
7 he has an obligation to the victims -- and I'm sure the SEC  
8 recognizes that too.

9 MS. BROWN: We do.

10 THE COURT: Is there anybody else who wishes to be  
11 heard?

12 On the question of incarceration, that's a matter  
13 for the magistrate judge, in the first instance, and the  
14 United States Attorney to work out.

15 You can come up, madam, if you'd like.

16 A VOICE: I would rather stay anonymous if that's  
17 okay with you.

18 THE COURT: It's okay.

19 A VOICE: On page 8 of the complaint it states Mr.  
20 Stein stole a million dollars from a client to buy the  
21 condominium he's living in.

22 I'm the victim that he stole the money directly from  
23 and I have a serious problem with him being able to go back  
24 and live in it.

25 Mr. Stein started preying on me six weeks after the

1 dealt of my mother and three months after the death of my  
2 father and stole a lot more than that, stole a nine thousand  
3 dollar a month ocean front apartment in Miami Beach, just  
4 everything my father worked for all his life and stole it and  
5 I have a serious problem with him going back to live in what  
6 is essentially a two million dollar apartment in Manhattan.

7 THE COURT: What do you want done?

8 A VOICE: I would like him incarcerated.

9 THE COURT: Well, that is a matter that the  
10 magistrate judge will take under advisement with the help of  
11 United States Attorney.

12 The statutes are very clear. This is congressional  
13 action under the Federal Crime Act, which were enacted not too  
14 long ago, that where there's no substantial probability of the  
15 defendant escaping --

16 A VOICE: I also know a --

17 THE COURT: -- or where there is no substantial  
18 probability of his doing further harm, pending sentence he  
19 should not be incarcerated. That's the national policy of  
20 this country.

21 A VOICE: I also know a lot about Mr. Stein's  
22 travels overseas and I do wonder what his flight risk really  
23 is because we know Mr. Stein personally for several years and  
24 he does travel extensively and he did at one time have two  
25 passports, so I wonder about how much risk he really is.

1 THE COURT: Where are his passports?

2 MR. KLUGMAN: Our understanding is that he only has  
3 one passport and it has been surrounded to Pretrial Services  
4 at the time of his address.

5 THE COURT: Is that true?

6 MR. MAAS: That's correct your Honor, he had one  
7 passport.

8 THE COURT: Where is he restricted to in travel?

9 MR. MAAS: His restrictions are the Eastern  
10 District, the Southern District and by a supplemental order  
11 from Judge Lynch he's been allowed to travel to visit his  
12 children who live outside of New York.

13 THE COURT: Where?

14 MR. MAAS: One is in North Carolina. He no longer  
15 has a reason, he had one -- he needed to go to Florida. Once  
16 he did that, he no longer has reason to be to Florida.

17 He had close family friends in is the  
18 Washington-Baltimore area. He no longer has reasons to travel  
19 there. It's really the New York-Metropolitan area and his  
20 daughter in North Carolina.

21 MR. KLUGMAN: Your Honor, the bond -- New York City  
22 and Long Island is on the face of the bond. He did request  
23 permission, and on consent of the government received it, to  
24 make several trips to wrap up certain affairs and visit  
25 certainly family members out of the area.

1 I think all those trips have now passed, if I'm not  
2 mistaken.

3 MR. MAAS: The only ongoing request that would still  
4 be -- would have liked to still be operative would have been  
5 the ability to visit his daughter and grandchildren in North  
6 Carolina.

7 THE COURT: We'll cancel that. There is no reason  
8 for him to be outside the city of New York. I don't see why  
9 he had needs the whole Southern and Eastern Districts.

10 MR. MAAS: He has family on Long Island. He's from  
11 Long Island and has family on Long Island so the entire --

12 THE COURT: Long Island, the whole Eastern District  
13 and the --

14 MR. MAAS: We ran into an issue with going to  
15 Westchester for a Passover seder. If we could just have the  
16 Southern District and the Eastern District?

17 THE COURT: All right. If that's what Judge Lynch  
18 provided, we'll keep it that way.

19 MR. MAAS: It was Magistrate Judge Azrack, but, yes.

20 THE COURT: Southern and Eastern Districts only.

21 You'll bring to the magistrate judge's attention, if  
22 you wish, what's been indicated by a number of the victims,  
23 that he travels widely.

24 MR. KLUGMAN: Your Honor, obviously they have a  
25 right to speak at that proceeding, so I will --

1 THE COURT: Inform everybody. Anything further?

2 MR. KLUGMAN: Nothing from the government. I will  
3 just work with the court's deputy in order to schedule a plea  
4 and a waiver of indictment hopefully for later this afternoon.

5 MR. MAAS: With respect to that financial statement,  
6 a copy of which we provided to the court, as long as we  
7 understand --

8 THE COURT: This is Court Exhibit 1?

9 MR. MAAS: Yes.

10 MR. KLUGMAN: I will await the redactions --  
11 actually, why don't you file a redacted copy.

12 MR. MAAS: Your Honor, just to make sure that  
13 doesn't end up in the court file, we will file a redacted copy  
14 within the next few days, if it's okay with the court.

15 THE COURT: All right. Seal this copy. The  
16 government will file a redacted copy. Does anybody else wish  
17 to be heard? All right. The government is directed to keep  
18 the victims informed of further proceedings. Before any of  
19 you leave, make sure that the United States Attorney has your  
20 name and address. You are entitled to be represented by your  
21 own counsel if you wish. Anything further?

22 MR. KLUGMAN: Nothing from the government.

23 THE COURT: These proceedings are completed. Thank  
24 you very much for being here.

25 \*\*\*\*\*

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